

MINUTES OF THE MEETING  
OF THE CITY COUNCIL OF THE  
CITY OF BURLINGTON  
August 16, 2005  
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on August 16, 2005, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Huffman, Jones and Starling

Councilmembers absent: Maynard

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

PRESENTATION TO FINANCE DEPARTMENT:

Certificate of Achievement for Excellence in Financial Reporting for 2004

MINUTES

Mayor Ross called for approval of the City Council minutes of the meeting of August 2, 2005.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to approve the minutes of the meeting held on August 2, 2005.

ADD-ON TO CONSENT AGENDA: Resignations/Appointment - Advisory Boards

ADOPTION OF AGENDA:

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to add the resignations/appointment to the Advisory Boards.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda with the add-on.

CONSENT AGENDA:

- A) To set a date of public hearing for September 20, 2005, to receive citizens' comments on the Consolidated Annual Performance for the 2004-2005 Community Development program.
- B) To approve a contract with Kimball Associates for planimetric mapping services at a cost of \$48,500.00.
- C) To consider a repeal of City Code Sections 32-62 through 32-69 (Meetings on Streets, Sidewalks).
- D) To temporarily close City parking lots #1, #2 and #3 located along West Webb Avenue at Worth and Spring Streets and between Spring and Lexington from 8:00 a.m. to 8:00 p.m. on Saturday, September 3, 2005, and to approve a carnival permit.
- E) To temporarily close Portsmouth Court (379-397 Portsmouth Court) on Saturday, August 20, 2005, from 5-8 p.m.
- F) To approve the City Council work session minutes of August 1, 2005.
- G) To approve the following Traffic Commission recommendations:

05-33

AMENDMENT TO THE CITY OF BURLINGTON TRAFFIC ORDINANCE

BE IT ORDAINED by the City Council of the City of Burlington:

- 1) To allow angle parking on the south side of North Main Street between Trade and Hawkins Streets.
- 2) To install traffic control devices at the following locations:
  - a. Stop sign on Dunleigh Drive approach to University Drive
  - b. Stop sign on Tremore Club Drive approach to Dunleigh Drive
  - c. Stop sign on Aglish Court approach to Dunleigh Drive
  - d. Stop sign on Tremore Club Drive approach to Limerick Drive
  - e. Stop sign on Doolin Street approach to Limerick Drive
  - f. Stop sign on Doolin Street approach to Dunleigh Drive

- g. Stop sign on Limerick Drive western approach to Dunleigh Drive
- h. Stop sign on Limerick Drive eastern approach to Dunleigh Drive

3) That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

4) That this ordinance shall take effect upon passage.

H) Budget Amendment 2006-05 - Establish Medicare Part D Outreach Grant Project - Senior Center:

MEDICARE PART D SENIOR OUTREACH GRANT PROJECT ORDINANCE  
BA2006-05

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, that pursuant to Section 13.2 Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is hereby adopted:

Sec. 1. The project authorized is the Medicare Part D Senior Outreach Grant Project to assist in the education of Senior Care enrollees in the City of Burlington, North Carolina.

Sec. 2. The officials of the City of Burlington are hereby directed to proceed with this project within the terms stated in the Grant contract.

Sec. 3. The following revenues are anticipated to be available to the City to complete the project:

28335.00	State Grant - DHHS (#RHLTH 5449080405)	\$20,000
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Sec. 4. The following amounts are appropriated for the project:

28500.11	Telephone	\$ 650
28500.14	Travel	700
28500.33	Training Supplies	650
28500.45	Contracted Services	18,000

Sec. 5. The Finance Director shall report on the financial status of this project as directed by the City Council and shall inform the Council of any unusual occurrences.

Sec. 6. Copies of this Project Ordinance shall be made available to the Budget Officer and the Finance Director for direction in carrying out this project.

Sec. 7. That this ordinance shall take effect upon passage.

I) Budget Amendment 2006-06 - Reimbursements to City of Greensboro for sewage treated:

BA2006-06

Increase Revenues:

30398.00	Appropriated Fund Balance	\$42,000
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Increase Expenditures:

30663.45	Contracted Services	\$42,000
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J) Budget Amendment 2006-07 - CDBG Reallocation of Funds:

BA2006-07

Decrease Expenditures:

73505.00	Durham St./Morgan Hill Trail	\$ 7,916
73507.00	Hunt Street Project	21,751
73508.00	Recr. Facilities Imprmts.-Broad St.	8,800

Increase Expenditures:

73506.00	Glen Raven Infrastructure	\$38,467
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K) Budget Amendment 2006-08 - Piedmont Triad Council of Governments - Grant:

BA2006-08

Increase Revenues:

10398.00	Appropriated Fund Balance	\$ 222
10335.14	PTCOG Grants	2,000

Increase Expenditures:

10626.33	Departmental Supplies	\$2,222
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L) Budget Amendment 2006-09 - Mid-Carolina Sponsorship Donation - Special Events:

BA2006-09

Increase Revenues:

10336.03	Donations - Recr. Programs	\$17,000
10365.12	Daily Green Fees	3,000

Increase Expenditures:

10624.33	Departmental Supplies	\$ 1,000
10624.45	Contracted Services	6,000
10624.61	Carousel Festival	10,000

M) Budget Amendment 2006-10 - Equipment for New Fire Positions:

BA2006-10

Increase Revenues:

10398.00	Appropriated Fund Balance	\$13,200
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Increase Expenditures:

10535.74	Equipment	\$13,200
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N) To award a bid to Municipal Services Group, Inc., for a lease purchase funding agreement for general fund equipment.

O) To approve the following reclassifications to be effective August 29, 2005:

- a) Police Department - Office Assistant III, Level 14, to Investigative Assistant, Level 16
- b) Recreation Department - Part-Time Youth Center Director to Full-Time Position, Level 18
- c) Human Resources - Safety Director, Level 22 to Level 28

P) To accept the resignation of Mr. John Robert Black from the Parks and Recreation Commission, to accept the resignation of James M. Burwell from the Planning and Zoning Commission, and to appoint Mr. Black to the Planning and Zoning Commission to fill the unexpired term of Mr. Burwell.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS:

MARTIN MARIETTA VOLUNTARY SATELLITE ANNEXATION

Mayor Ross announced that a public hearing had been scheduled to consider approving the Martin Marietta voluntary satellite annexation.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Mr. Jones to abstain from voting because his partner, Mr. Lawson Brown, was representing Martin Marietta.

Planning Director Robert Harkrader stated that the voluntary satellite annexation consisted of approximately 377.42 acres.

Mr. Lawson Brown stated that Mr. Paxton Badham and Mr. Dean Hardy from Martin Marietta were available to answer technical questions. Mr. Brown stated that the tax value of this property was approximately \$2.8 million and extended the corporate limits from Huffman Mill Road to the Lake Mackintosh project.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

05-34

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 9:00am on Tuesday, August 16, 2005, after due notice by the publication on August 4, 2005; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b), to with:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the City;
- c. The area described is so situated that the City will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the City; and

WHEREAS, the City Council further finds that the petition has been signed by all owners of real property in the area who are required by law to sign; and

WHEREAS, the City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2 the following described non-contiguous territory is hereby annexed and made part of the City of Burlington as of September 30, 2005 at 11:59pm.

#### MARTIN MARIETTA SATELLITE ANNEXATION DESCRIPTION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bound on the north by property now or formerly owned by John A. Moody, George Moody, Kirkpatrick and Associates and others; bound on the east by property now or formerly owned by Blondie Greeson, Clarence Sharpe, Bessie Shelton, James Isley, Mary A. Dodson and others; bound on the south by property now or formerly owned by R. L. Harvey, III, Harold Harvey, Greeson Family Limited Partnership and others; and bound on the west by the

existing City of Burlington Corporate Limits and property now or formerly owned by Great Alamance Associates, James F. Payne, Raymond E. Payne, Edith P. Conklin and others and being more particularly described as follows:

BEGINNING at a rock, said rock being a corner in the existing City of Burlington Corporate Limits and a common corner with Great Alamance Associates and James F. Payne and running thence from said beginning point with the new corporate limits line and the line of James F. Payne north 22 deg. 56' 41" east 478.02 feet to an axle, a corner with Raymond E. Payne; thence with the new corporate limits line and the line of Raymond E. Payne north 22 deg. 55' 32" east 400.17 feet to an iron stake, a corner with Edith P. Conklin; thence with the new corporate limits and the line of said Conklin north 22 deg. 56' 25" east 300.15 feet to a marked 30-inch oak and a corner with John A. Moody; thence with the new corporate limits and the line of said Moody south 44 deg. 13' 22" east 248.99 feet to a rock, a corner with said Moody; thence with the new corporate limits line and the line of John D. Moody and continuing with George Moody, south 89 deg. 01' 50" east 680.31 feet to an iron stake, a corner with John A. Moody; thence with the new City of Burlington Corporate Limits line and the line of John D. Moody the following courses and distances: south 58 deg. 55' 03" east 868.62 feet to an iron stake; thence south 58 deg. 50' 23" east 213.59 feet to an iron stake; thence north 83 deg. 07' 45" east 311.91 feet to an iron stake; thence north 15 deg. 25' 26" east 341.07 feet to an iron stake; thence north 85 deg. 52' 33" east 1056.00 feet to a corner with Kirkpatrick and Associates in a creek; thence with the new corporate limits line and the line of Kirkpatrick and Associates the following courses and distances: south 16 deg. 50' 00" east 299.14 feet to a point; thence south 29 deg. 13' 09" west 157.45 feet to a point; thence south 16 deg. 49' 10" west 29.04 feet to a point; thence south 2 deg. 42' 52" east 62.72 feet to a point; thence south 65 deg. 54' 45" east 356.74 feet to a point; thence north 82 deg. 08' 47" east 501.94 feet to an iron stake in the line of Blondie Greeson; thence with the new corporate limits and the line of the said Greeson, south 1 deg. 18' 29" west 477.70 feet to an iron stake; thence south 88 deg. 45' 25" east 315.57 feet to an iron stake in the west right-of-way line of Huffman Mill Road that is a control corner having N.C. Grid Coordinates north=839,275.51 and east=1,849,947.65; thence with the new corporate limits line across Huffman Mill Road and continuing with the line of Clarence Sharpe south 89 deg. 28' 07" east 695.99 feet to an iron stake, a corner with Bessie Shelton; thence with the new corporate limits line and the line of said Shelton and continuing with the line of James Isley south 3 deg. 24' 57" west 1323.25 feet to an iron stake, a corner with James Isley in the line of Bessie Shelton; thence with the new City of Burlington Corporate Limits line and the line of Bessie



Shelton north 88 deg. 48' 55" west 625.57 feet to an iron stake; thence south 0 deg. 17' 06" west 726.01 feet to an iron stake, a corner with Mary Dodson; thence with the new corporate limits line and the line of Mary Dodson the following courses and distances: south 44 deg. 43' 55" west 907.28 feet to an iron stake; thence south 19 deg. 38' 06" west 363.28 feet to a stone corner; thence south 09 deg. 09' 55" west 869.34 feet to a corner with R. L. Harvey, III, located in the creek; thence with the new corporate limits line and the line of said Harvey the following courses and distances: north 51 deg. 15' 36" west 193.75 feet to a point in the creek; thence north 9 deg. 56' 54" west 305.60 feet to a point in the creek; thence north 13 deg. 11' 54" west 242.60 feet to a point in the creek; thence north 9 deg. 48' 06" east 144.24 feet to a point in the creek; thence leaving the creek north 89 deg. 32' 41" west 1413.49 feet to a spike in the center of Huffman Mill Road, a common corner with R. L. Harvey, III, Harold Harvey and Greeson Family Limited Partnership; thence with the new corporate limits line and the line of Greeson Family Limited Partnership the following courses and distances: north 89 deg. 32' 41" west 322.40 feet to an iron stake; thence north 14 deg. 03' 47" east 413.41 feet to an iron stake; thence north 40 deg. 46' 20" west 559.42 feet to an iron stake; thence north 67 deg. 35' 13" west 265.13 feet to an iron stake; thence north 82 deg. 57' 25" west 700.00 feet to an iron stake; thence north 18 deg. 39' 54" west 1096.57 feet to an axle; thence north 3 deg. 23' 49" east 116.49 feet to a point in the creek; thence north 57 deg. 39' 20" west 165.24 feet to a point in the creek; thence north 71 deg. 30' 30" west 250.09 feet to a point in the creek, said point being in the line of Great Alamance Associates and the existing City of Burlington Corporate Limits; thence with the existing City of Burlington Corporate Limits line and the line of Great Alamance Associates north 1 deg. 02' 21" west 1033.89 feet to the point of BEGINNING and containing 387.15 acres (0.6049 square miles) and being as shown on a survey by Whitt Lane Surveying, P.C., entitled *Annexation Plat of Martin Marietta Materials Burlington Quarry for City of Burlington* dated April 1, 2005.

Section 2. Upon and after September 30, 2005 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh,

North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 16<sup>th</sup> day of August 2005.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, and Starling. Councilmember Jones abstained from voting.

#### SAVANNAH WEST VOLUNTARY ANNEXATION

Mayor Ross announced that a public hearing had been scheduled to consider approving the Savannah West voluntary annexation.

Planning Director Harkrader stated that Savannah West was a voluntary annexation and consisted of approximately 3.87 acres located off St. Mark's Church Road. He stated that this property would be the location of a retail shopping center.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

05-35

#### AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 9:00am on August 16, 2005, after due notice by the publication on August 4, 2005; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of September 30, 2005

### SAVANNAH WEST ANNEXATION DESCRIPTION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, adjoining the lands of Lot 1 of the C.W. Whitt Subdivision, Ila Mae Hudson, Bob Rose, and St. Mark's Church Road and more particularly described as follows:

BEGINNING at an existing iron pipe located on the western right of way of St. Marks Church Road and being a corner of the Existing City of Burlington Corporate Limits as per plat book 45 page 135 and also a corner with Lot 1 of the C.W. Whitt Subdivision, running thence with the western right of way of St. Marks Church Road along a curve to the right having a chord S. 07-22-05 W. 165.77 feet and having a radius of 776.19 feet to an existing iron pipe, thence again with the right of way of St. Marks Church Road along a curve to the right having a chord S. 14-21-22 W. 23.25 feet and having a radius of 776.19 feet to an existing iron pipe, thence again with the said right of way along a curve to the right having a chord S. 17-57-02 W. 98.90 feet and having a radius of 1040.12 feet to an existing iron pipe, thence again with said right of way S. 23-16-50 W. 106.72 feet to an existing iron pipe and being a corner with Ila Mae Hudson, thence with the line of said Hudson N. 89-46-00 W. 456.47 feet to an existing iron pipe being in the line of said Hudson and a corner with Bob Rose (passing an iron stake at 174.95 feet), thence with the line of said Rose the following courses and distances: N. 01-35-57 E. 159.16 feet to an existing iron pipe, S. 88-26-53 E. 100.00 feet to an existing iron pipe, N. 01-33-07 E. 187.29 feet to an existing iron pipe and being in the line of the Existing City of Burlington Corporate Limits as per plat book 29 page 89, thence again with said Rose S. 88-42-05 E. 165.53 feet to an existing iron pipe, thence again with said Rose N. 00-42-14 W. 45.05 feet to an existing iron pipe and being a corner with Lot 1 of the C.W. Whitt Subdivision, thence with the line of said Lot 1 S. 88-25-54 E. 281.84 feet to the BEGINNING, containing 3.87 acres (0.006 square miles) more or less. This description was taken from a plat by Simmons Engineering and Surveying entitled, "Final Plat City of Burlington Corporate Limits Extension", dated April 18, 2005.

Section 2. Upon and after September 30, 2005, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 16th day of August 2005.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Jones and Starling.

NEW BUSINESS:

RESOLUTION - ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2000

Mayor Ross announced that the City Council would consider adoption of a resolution for the issuance of General Obligation Refunding Bonds, Series 2000. This allows for the sale of the refunded bonds through the Local Government Commission.

Director of Finance and Risk Management Linda Hollifield explained that due to rising interest rates the refunding was on hold, that there would be insufficient savings at this time for the September sell date. Ms. Hollifield stated that the resolution authorized the Finance Director to continue to watch the interest rates along with the Local Government Commission and would allow the Finance Director to go forward when the rates were sufficient.

Councilmember Starling moved the adoption of the following resolution:

RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL  
OBLIGATION REFUNDING BONDS, SERIES 2005

BE IT RESOLVED by the City Council (the "City Council") of the City of Burlington, North Carolina (the "City"):

Section 1. The City Council has determined and does hereby find and declare as follows:

(a) An order authorizing \$18,000,000 General Obligation Refunding Bonds was adopted by the City Council on August 2, 2005, which order has taken effect.

(b) None of said bonds have been issued, no notes have been issued in anticipation of the receipt of the proceeds of the sale of said bonds and it is necessary to issue \$16,590,000 of said bonds at this time, subject to adjustment as provided below.

(c) The shortest period of time in which the outstanding General Obligation Public Improvement Bonds, Series 2000 of said City, dated August 1, 2000, to be refunded by said bonds can be finally paid without making it unduly burdensome on the taxpayers of the City as determined by the Commission is a period which expires on February 1, 2019, and that the end of the unexpired period of usefulness of the projects financed by said bonds is estimated as a period of forty (40) years from August 1, 2000, the date of said bonds, and that such period expires on August 1, 2040 (except for improvements to the City's communications system financed from \$3,000,000 of the proceeds of such bonds which have an estimated unexpired period of usefulness of ten (10) years from August 1, 2000, such period expiring on August 1, 2010);

Section 2. Pursuant to said order, there shall be issued bonds of the City in the aggregate principal amount of \$16,590,000 (subject to adjustment as hereinafter provided) designated "General Obligation Refunding Bonds, Series 2005" and dated September 1, 2005 (the "Bonds"). The Bonds shall be stated to mature (subject to adjustment as hereinafter provided) annually, February 1, \$115,000 2006, \$165,000 2007 and 2008, \$170,000 2009, \$175,000 2010, \$1,985,000 2011, \$1,955,000 2012, \$1,930,000 2013, \$1,900,000 2014, \$1,875,000 2015, \$1,850,000 2016, \$1,825,000 2017, \$1,800,000 2018 and \$680,000 2019 and shall bear interest at a rate or rates to be determined by the Local Government Commission of North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on each February 1 and August 1, beginning February 1, 2006, until payment of such principal sum.

The City reserves the right to increase or decrease the principal amount of each maturity of the Bonds prior to the opening of bids for the Bonds in the manner set forth in the Notice of Sale relating to the Bonds. The City also reserves the right to increase or decrease the principal amount of each maturity of the Bonds by an amount not to exceed \$250,000 per maturity and the aggregate principal amount of the Bonds by an amount not to exceed \$1,500,000 following the opening of bids, as provided in the Notice of Sale relating to the Bonds. Any such increase or decrease shall be made only to the extent necessary to effect the refunding of the bonds for which the Bonds are being issued.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date, in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds shall be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), shall be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the City hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative, at such office of the Bond Registrar (hereinafter mentioned) or such other place as the City may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by said Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next

preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books; provided, however, that for so long as the Bonds are deposited with DTC, the payment of the principal of and interest on the Bonds shall be made to DTC in same-day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The City shall not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Director of Finance and Risk Management of the City determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City shall discontinue the book-entry system with DTC. If the City identifies another qualified securities depository to replace DTC, the City shall make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the City fails to identify another qualified securities depository to replace DTC, the City shall deliver replacement Bonds in the form of fully-registered certificates in denominations of \$5,000 or any whole multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the City may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Mayor and the City Clerk and the official seal or a facsimile of the official seal of the City shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission, and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as hereinafter provided.

In case any officer of the City or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds and the endorsements thereon shall be in substantially the following form:

No. R-\_\_\_\_\_ \$\_\_\_\_\_

United States of America  
State of North Carolina

CITY OF BURLINGTON, NORTH CAROLINA  
GENERAL OBLIGATION REFUNDING BOND, SERIES 2005

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP</u>
February 1, _____	_____%	

The City of Burlington, North Carolina, a municipal corporation duly organized and validly existing in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Director of Finance and Risk Management of said City (the "Bond Registrar"), in Burlington, North Carolina, the principal sum of \_\_\_\_\_ DOLLARS

and to pay interest on such principal sum from the date hereof or from the February 1 or August 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a February 1 or August 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable semiannually on each February 1 and August 1, beginning February 1, 2006, at the rate per annum specified above, until payment of such principal sum. The interest



so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said City; provided, however, that for so long as the Bonds (hereinafter defined) are deposited with The Depository Trust Company, New York, New York ("DTC"), the payment of the principal of and interest on the Bonds shall be made to DTC in same-day funds by 2:30 p.m. or otherwise as determined by the rules and procedures established by DTC. Both the principal of and the interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both

principal and interest as the same shall become due, the faith and credit of said City are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Refunding Bonds, Series 2005" (the "Bonds") and issued by said City for the purpose of providing funds for refunding certain outstanding general obligation bonds of the City. The Bonds are issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, an order adopted by the City Council of said City, which order has taken effect, and a resolution duly passed by said City Council (the "Resolution").

The Bonds maturing on or prior to February 1, 2015 will not be subject to redemption prior to their maturity. The Bonds maturing on February 1, 2016 and thereafter will be subject to redemption prior to their maturity, at the option of the City, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than February 1, 2015, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as said City in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. So long as a book-entry

system with The Depository Trust Company, New York, New York ("DTC"), is used for determining beneficial ownership of Bonds, if less than all of the Bonds within the maturity are to be redeemed, DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed by lot. If less than all of the Bonds stated to mature on different dates shall be called for redemption, the particular Bonds or portions thereof to be redeemed shall be called in such manner as the City may determine.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, said City shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part to his address appearing upon the registration books of said City, provided that such notice to Cede & Co. shall be given by certified or registered mail. On the date fixed for redemption, notice having been given as aforesaid, the Bonds or portions thereof so called for redemption shall be due and payable at the redemption price provided for the redemption of such Bonds or portions thereof on such date and, if moneys for payment of such redemption price and the accrued interest are held by the Bond Registrar as provided in the Resolution, interest on the Bonds or the portions thereof so called for redemption shall cease to accrue. If a portion of this Bond shall be called for redemption, a new Bond or Bonds in principal amount equal to the unredeemed portion hereof will be issued to Cede & Co. or its legal representative upon the surrender hereof.

Any notice of redemption may state that the redemption to be effected is conditioned upon the receipt by the City on or prior to the redemption date of moneys sufficient to pay the principal of and interest on the Bonds to be redeemed, and that if such moneys are not so received, such

notice shall be of no force or effect and such Bond shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the redemption price and interest on such Bonds are not received by the City on or prior to the redemption date, the redemption shall not be made and the City shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and

registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any whole multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said City will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said City will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any whole multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his office the books of said City for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to the Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said City sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said City, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City of Burlington, North Carolina, by resolution duly passed by its City Council, has caused this bond to be manually signed by the Mayor and the City Clerk of said City and its official seal to be impressed hereon, all as of the 1<sup>st</sup> day of September.

The foregoing resolution was seconded by Councilmember Huffman, and it was passed unanimously.

#### WATER SERVICE - CARRIAGE WAY SUBDIVISION

Mayor Ross announced that the City Council would consider a request from a private water company, North Carolina Water Utility and Associates, to buy bulk water from the City to provide water for the Carriage Way Subdivision.

Mr. Bill Stover, NC Water Utility and Associates, asked the City Council to consider selling bulk water to NC Water Utility and Associates for the Carriage Way Subdivision. He stated the developer and the landowners were on a system that did not meet state specifications for a community well system. Mr. Stover stated that the City had a water line that was adjacent to the property and could be made available to provide the requested water.

Upon Motion by Councilmember Huffman, seconded by Councilmember Jones, it was resolved unanimously to continue the item to the September 20, 2005, City Council meeting.

REFUND BID BOND - GILLIAM ROAD, PARK ROAD OUTFALL

Mayor Ross announced that the City Council had received a request from Burlington Mechanical Contractors, Inc., that its 5% bid bond be returned due to a clerical error.

Mr. George Workman, Burlington Mechanical Contractors, Inc., stated that Burlington Mechanical submitted a bid for the Glen Raven area project and that the secretary failed to pick up the rock clause and that it was subsequently omitted from the bid.

City Manager Harold Owen commented that Burlington Mechanical was the low bid and due to a clerical error has withdrawn its bid according to the statute. City Manager Owen stated that Burlington Mechanical was requesting that the 5% bid bond be returned due to the clerical error.

Upon Motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to return the 5% bid bond to Burlington Mechanical Contractors.

AWARD OF BID BOND - GILLIAM ROAD, PARK ROAD OUTFALL - WATER AND SANITARY SEWER IMPROVEMENTS - COMMUNITY DEVELOPMENT PROJECT

Mayor Ross announced that the City Council would consider awarding a bid in the amount of \$512,421 to Yates Construction Company, Inc., for water and sanitary sewer improvements in the Glen Raven area (Gilliam Road, Park Road and Park Road outfall).

City Manager Harold Owen stated that Yates Construction was the second lowest bid on the Glen Raven project and that staff recommended that the bid be awarded to Yates Construction Company.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to award a bid in the amount of \$512,421 to Yates Construction Company, Inc., for water and sanitary sewer improvements in the Glen Raven area.

PUBLIC COMMENT PERIOD:

Mr. Roosevelt Wiley completed a request to speak but was not in attendance when recognized by Mayor Ross.

**ADJOURN:**

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously to adjourn.

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Jondeen D. Terry  
City Clerk